

SECRETARY OF STATE[721]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State amends Chapter 22, "Voting Systems," Iowa Administrative Code.

This amendment is necessary to update the administrative rule to reflect the newest version of voting system testing guidelines, approved by the U.S. Election Assistance Commission (EAC) in 2005. The current administrative rule provides that voting systems approved for use in Iowa must meet the Voting Systems Performance and Test Standards as adopted by the Federal Election Commission on April 30, 2002. Passed in 2002, the Help America Vote Act vested authority for approval of future federal voting system standards with the EAC. The 2005 Voluntary Voting System Guidelines (2005 VVSG) were adopted by the EAC in December 2005 and became effective in December 2007. The first voting systems that have been tested to the new standards and certified by the EAC are beginning to appear on the market. Amending this administrative rule will make it possible for these systems to be considered for approval by the Iowa Board of Voting Equipment Examiners.

Pursuant to Iowa Code section 17A.4(3), the Secretary of State finds that notice and public participation are unnecessary because these voting system standards have been thoroughly vetted by the EAC, and all voting equipment used in the state must still be approved for use by the Iowa Board of Voting Equipment Examiners. The amended rule confers benefits to Iowa county commissioners of elections, boards of supervisors and voters by allowing the Iowa Board of Voting Equipment Examiners to approve systems that are built and tested to the most recent federally certified voting system standards. This amendment has the potential of providing additional choices for county boards of supervisors needing to purchase new voting systems.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Secretary of State further finds that the normal effective date of this amendment, 35 days after publication, should be waived and this amendment made effective upon filing. The normal effective date should be waived because this is a technical change, simply adding the most recent voting system standards adopted by the EAC to an existing administrative rule.

This amendment is also published herein under Notice of Intended Action as **ARC 9763B** to allow for public comment.

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement 2011 Iowa Code section 52.5.

This amendment became effective September 8, 2011.

The following amendment is adopted.

Amend rule 721—22.2(52) as follows:

721—22.2(52) Voting system standards. All electronic voting systems approved for use by the board of examiners after April 9, 2003, shall meet Voting Systems Performance and Test Standards, as adopted by the Federal Election Commission April 30, 2002, or the 2005 Voluntary Voting Systems Guidelines, as adopted by the U.S. Election Assistance Commission in December 2005. The report of an accredited independent test authority certifying that the system is in compliance with these standards shall be submitted with the application for examination.

This rule is intended to implement Iowa Code section 52.5.

[Filed Emergency 9/8/11, effective 9/8/11]

[Published 10/5/11]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/5/11.